

Exhibit A

4/9/60 Jeff Brown

submitted MLAT - pending
thought would get unofficial materials - but not yet

reviewing classified materials - found one piece of Brady material -
does not relate to transaction charged^{pt.}

- scam transaction proposed -
getting that to me

working on that; nervous abt how much time has passed.

- trial & issue - - -

- material support -

Exhibit B

04DVYOUUC

Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

DOC # 15

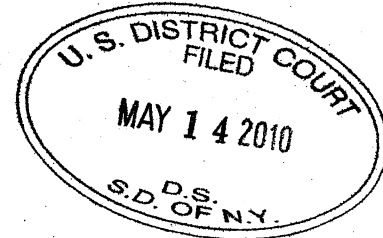
3 UNITED STATES OF AMERICA,

4 v.

08 CR 1213 (JFK)

5 JAMAL YOUSEF, a/k/a "Talal
6 Hassan Gbantou,"

7 Defendant.
-----x



8
9 New York, N.Y.
10 April 13, 2010
11 10:27 a.m.

Original

12 Before:

13 HON. JOHN F. KEENAN,

14 District Judge

15 APPEARANCES

16 PREET BHARARA,
17 United States Attorney for the
18 Southern District of New York
19 JEFFREY BROWN
20 Assistant United States Attorney

21 MELINDA SARAFA
22 Attorney for Defendant

23 ALSO PRESENT: MIRTA HESS, Spanish Interpreter
24
25

04DVYOUNC

Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

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20 Attorney for Defendant

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04DVYOUUC

Conference

1 (In open court)

2 THE COURT: All right. Our first matter is the United
3 States against Jamal Yousef. And the official interpreter is
4 here, and Ms. Sarafa is here for the defendant, and Mr. Brown
5 is here. And I know that the motion schedule has been put off.

6 Now, I just want to make sure. First of all, have you
7 supplied the discovery, Mr. Brown?

8 MR. BROWN: Judge, the short answer is there's still
9 outstanding discovery.

10 THE COURT: What's the problem? I mean I first saw
11 Mr. Yousef on September 8th, 2009. And we're now into April.
12 I mean this isn't a case involving the Coca-Cola formula, is
13 it? I mean you charge him as being a member of this group,
14 this so-called Fuerzas Armadas Revolucionarias de Colombia,
15 which is known as FARC. What's the discovery that's still
16 outstanding?

17 MR. BROWN: Judge, the discovery that's still
18 outstanding is classified, that's the problem. It's this
19 process --

20 THE COURT: Isn't there something called SEPA?

21 MR. BROWN: There is, Judge, and we intend --

22 THE COURT: Did you ever tell me about that till now?

23 MR. BROWN: I apologize, Judge. I did not tell you
24 that there was one.

25 THE COURT: Okay. You didn't know about it.

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Conference

1 MR. BROWN: I may have.

2 THE COURT: Why didn't you tell me that?

3 MR. BROWN: If I didn't, Judge, I apologize. I
4 thought I might have. I've been reviewing the classified
5 discovery, and there is --

6 THE COURT: I was on the Foreign Intelligence Court
7 for seven years. I've tried two terrorist cases where SEPA was
8 involved. Let's get cracking with this thing.

9 MR. BROWN: Judge, I promise you that I'm working on
10 it. I understand your frustration. It's frustrating to me,
11 too. I know that you're familiar with the process. Sometimes
12 there's an argument between us and the various agencies who
13 collect these materials about what can and can't be disclosed.
14 And I'm working diligently to make whatever discoverable
15 matters exist --

16 THE COURT: When you say there's an argument with the
17 agencies, if the material is covered by Rule 16, it has to be
18 produced. If you can't produce it, then maybe you don't go
19 ahead with the prosecution. I'm not saying you should drop it
20 today, that's not what I'm saying.

21 Tomorrow I'm leaving for Chicago to go to a meeting of
22 the Advisory Committee on Criminal Rules of the Judicial
23 Conference of which I'm a member. Practically, the whole
24 subject is going to be Rule 16 and disclosure. And the
25 contention by many at the defense bar is materials are not

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Conference

1 being supplied that should be supplied.

2 I understand that sometimes there are issues
3 concerning classified information, but by the same token, it
4 has to be resolved at some point in time, because he's being
5 held in custody, and Ms. Sarafa wants to bring a motion. I
6 don't know whether she's in a position to bring the motion now.
7 As I understand her motion, it's addressed to the
8 constitutionality of the statute. Am I correct about that?

9 MS. SARAFA: That's one motion, your Honor. There
10 will be, I anticipate, other motions, as well. And one of the
11 things that I am trying to work through is exactly what motions
12 need to be brought, and that depends upon seeing all of the
13 discovery. There may well be some --

14 THE COURT: What is the motion schedule? When are you
15 going to move?

16 MS. SARAFA: Well, I think that given --

17 THE COURT: At least I mean whatever is classified or
18 not classified and whatever is discoverable or not
19 discoverable, that has nothing to do with the constitutionality
20 of the statute, does it?

21 MS. SARAFA: That's correct.

22 THE COURT: All right. So make your motion about the
23 constitutionality; let's get over that hurdle. When is that
24 going to be made?

25 MS. SARAFA: Well, since I was anticipating filing all

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Conference

1 of the motions at the same time, I mean I would ask for 30 days
2 to file a motion on the constitutionality.

3 THE COURT: All right. You want to file on
4 constitutionality on May 13th, is that right?

5 MS. SARAFA: I can do that, your Honor.

6 THE COURT: OK. That's a month. Is that what you
7 want?

8 MS. SARAFA: Yes.

9 THE COURT: All right. Now, when will you be able to
10 answer, Mr. Brown?

11 MR. BROWN: In a week, Judge; so the 20th.

12 THE COURT: All right. I'll give you until May 21st.

13 MS. SARAFA: And I would request a week to reply.

14 THE COURT: Would you like to reply?

15 MS. SARAFA: Yes.

16 THE COURT: All right. When would you like?

17 MS. SARAFA: One week, please.

18 THE COURT: All right. May 28th. Now, when will you
19 learn, Mr. Brown, about your ability or inability, ultimately,
20 to make further disclosures under Rule 16? When are you going
21 to be able to find this out? First of all, is this in the
22 terrorist unit in your office?

23 MR. BROWN: Yes.

24 THE COURT: OK. Who's the head of the terrorist unit?

25 MR. BROWN: There are two chiefs, Michael Farbiarz and

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Conference

1 Anjan Sahni.

2 THE COURT: OK. Mr. Farbiarz tried one of the
3 terrorist cases before me. Tell him you are before me about
4 this, and that Keenan is becoming very difficult; and that he
5 wants -- he, Keenan -- wants some kind of decision as to what
6 you're going to do or what you're not going to do. Otherwise,
7 Farbiarz will be over here, together with the head of the
8 criminal division, together with the U.S. Attorney, because
9 from September 8th until now is an inordinate period not to be
10 able to make your mind up. I mean in the other cases I've
11 tried where there's confidential or classified or secretive --
12 top secret material, it didn't take that long. So when are you
13 going to be able to get this resolved?

14 MR. BROWN: Judge, I'm traveling down to Washington
15 next week, so I should have a better answer for you. I may,
16 after that, write you a letter under seal ex parte explaining a
17 little bit more the circumstances, and maybe that will, you
18 know, help you understand sort of the complications I'm in.
19 It's not as much a decision about whether something is
20 discoverable; we've made our determination about that.

21 THE COURT: OK. Well, we should pick an adjourned
22 date, it seems to me. And it seems to me that ultimately
23 Ms. Sarafa is going to have to make another motion, unless I
24 dismiss the indictment on the grounds of the statute is
25 unconstitutional.

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Conference

1 So I think we better have a conference sometime in
2 June, at which time this discovery stuff will be resolved one
3 way or the other. And I would prefer to have ruled on the
4 constitutionality motion by the time of the conference.

5 So are you available during June, Ms. Sarafa?

6 MS. SARAFA: Yes, your Honor.

7 THE COURT: All right. When would you like?

8 MS. SARAFA: Perhaps the week of June 7th, possibly
9 the 10th or 11th.

10 THE COURT: All right. Let's make it June 11th at 10
11 a.m. And the time between now and then is excluded from the
12 provisions of the Speedy Trial Act because of the motion that
13 you are about to bring concerning the constitutionality of the
14 statute. Thank you very much. June 11th 10 o'clock. Thank
15 you.

16 MR. BROWN: Thank you, your Honor..

17 MS. SARAFA: Thank you, your Honor.

18 THE COURT: I just want to make sure of one thing. I
19 don't think we need to bring the defendant back out, but how is
20 his physical condition?

21 MS. SARAFA: He did undergo surgery, and he actually
22 wanted to express to the Court his appreciation of that having
23 taken place.

24 THE COURT: I just wanted to make sure he was all
25 right. OK. Thank you.

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Conference

1 MS. SARAFA: I think we were awaiting test results,
2 but things are moving along as they should.

3 THE COURT: Thank you.

4 MS. SARAFA: Thank you.

5 * * *

Exhibit C

Melinda Sarafa

From: Nickens, Robin (JMD) [Robin.Nickens@usdoj.gov]
Sent: Tuesday, June 15, 2010 4:48 PM
To: 'Melinda Sarafa'
Cc: Macisso, Michael P
Subject: Background Investigation# 8108032
Attachments: e-QIPApplicantBrochure.pdf; DOJ 555 revised 10-6-08.pdf; TAXWAIVER ALL.pdf

Ms. Sarafa,

It has been determined you may require access to classified information. This access requires a favorable adjudication of a Background Investigation (BI) that will be conducted by the Federal Bureau of Investigation. In order to initiate this process it is necessary for you to submit a security clearance package to this office.

Attached you will find guidelines and a checklist to assist you in submitting the Standard Form 86 (SF-86), *Questionnaire for National Security Positions* using e-QIP. E-QIP is a secure website that can be accessed from any computer system which has an internet connection. ***This process will need to be completed within 10 days upon receipt of this notice.***

Also attached are documents that must be submitted separately that are not part of e-QIP such as the IRS Tax Waiver Form, Department of Justice consumer/credit release form and additional instructions for completing your fingerprint cards.

To complete your SF-86 using e-QIP, go to the following link: <https://www.e-qip.opm.gov/eqip/eQIP> . Please thoroughly read and follow the instructions for completing this form. NOTE: To fully address suitability/security issues, responses to questions on the SF-86 must go back (10) ten years. Failure to complete the application as instructed may lead to significant delays in processing your BI.

Please read the following helpful information.

From the website, you will:

- Select **e-QIP Application Site**. An automated test of your computer web browser for compatibility will be conducted.
- If your browser is not compatible, instructions will explain what you need to do to be able to complete the form on line.
- Check your Internet Explorer settings to make sure that you have TLS 1.0 enabled in your security settings. TLS 1.0 is needed to view e-QIP. To do this, conduct the following steps:
- Open IE and select **Tools**. Then select **Internet Options**. Next select the tab marked **Advanced**. Scroll down to the Security section at the bottom of the listing and make sure the box next to **TLS 1.0** is checked. Select **Apply**, then **Okay**.
- If the results of the web browser check are complete, you will then select **continue**.
- You will then be asked to provide your social security number (SSN).
- Once this is completed, you will be asked three (3) "Golden Questions".

(your last name, year of birth, and city of birth)

If you were born in Washington, DC, please note: when the system requests your city of birth enter Washington only. DC will be your state code.

Once you have completed the e-QIP application you will need to do the following:

1. Certify your form by clicking the **Certify** button. This step certifies that you have provided correct and accurate information. Once certified, **your answers to the Questionnaire will be locked and unavailable for editing.**
2. Print an archival copy of your form for your own records.
3. Print out the **3 e-QIP release forms** 1) e-QIP Certification Page 2) e-QIP Authorization for Release of Information, and 3) e-QIP Authorization for Release of Medical Information.
4. Select the **Release request/Transmit to Agency**. The forms will be sent electronically to this office. If there are any errors found during the review of your form we will return it to you electronically for corrections indicating the errors and the process to follow to correct them.

PLEASE DO NOT UPLOAD, SCAN, FAX OR ATTACH ANY SIGNATURE PAGES TO THE SYSTEM. YOUR FORMS MUST BE MAILED BACK TO THE ADDRESS SPECIFIED BELOW IN THIS EMAIL.

IF YOU HAVE ANY QUESTIONS PLEASE CONTACT (202) 514-9016.

Please return the completed IRS Tax Waiver Form and DOJ consumer/credit release forms, e-QIP signature forms and 2 completed fingerprint cards. Also include a cover letter indicating the name of the case that you are associated with and your position, i.e., law clerk, attorney. Please return this material, along with a cover letter to via **FEDEX** to:

United States Department of Justice
Litigation Security Group
145 N. Street NE
Suite 2W.115
Washington, DC 20530-0001
ATTN: Mike Macisso

If you encounter any problems completing the application on-line or if you have any additional questions, please contact Robin Nickens, at (202) 514-9016.

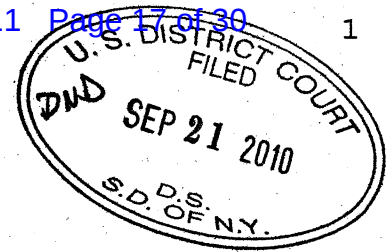
Sincerely,

Joan B. Kennedy
Associate Director
Security and Emergency Planning Staff
Litigation Security Section

Exhibit D

08nzyouc

Conference



1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

S3 08 CR 1213 (JFK)

5 JAMAL YOUSEF,

6 Defendant.

Original

8 August 23, 2010
9 10:14 a.m.

10 Before:

11 HON. JOHN F. KEENAN,

12 District Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the
16 Southern District of New York

17 BY: CHRISTOPHER LAVIGNE

Assistant United States Attorney

18 MELINDA SARAFA

19 Attorney for Defendant

20 Also Present: Paula Gold, Spanish Interpreter

21
22
23 DOC# 25
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08nzyouc

Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

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S3 08 CR 1213 (JFK)

5 JAMAL YOUSEF,

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10 Before:

11 HON. JOHN F. KEENAN,

12 District Judge

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14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
17 Southern District of New York

BY: CHRISTOPHER LAVIGNE

18 Assistant United States Attorney

19 MELINDA SARAFA

Attorney for Defendant

20 Also Present: Paula Gold, Spanish Interpreter

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Conference

1 THE DEPUTY CLERK: All rise.

2 THE COURT: Good morning, everybody.

3 All right, the decision on the motion to dismiss I
4 signed this morning, and I've had it passed out. The motion is
5 denied.

6 What is your pleasure? You want a trial date, you
7 want an adjourned date, what would you like?

8 MS. SARAFA: Good morning, your Honor, Melinda Sarafa.

9 THE COURT: Good morning. Nice to see you. Good
10 morning to you also, Mr. Yousef.

11 MS. SARAFA: Your Honor, as the Court is aware --

12 THE DEFENDANT: Good morning.

13 MS. SARAFA: -- we have been waiting for additional
14 materials from Sweden as part of the discovery production. I
15 just received from the government a letter with a CD with some
16 supplemental -- some of those materials. But it's also clear
17 from the letter that one of the CD Roms that was produced could
18 not be accessed, and so a request for that remains pending.

19 Also, there has been discussion of potential
20 classified materials that are relevant to the defense. I have
21 been in the process of undergoing background check and security
22 clearance --

23 THE COURT: Sure.

24 MS. SARAFA: -- which should be completed very shortly
25 but it has not yet been.

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Conference

1 And I understand that there's an additional period of
2 time, even after I get cleared, before I could can obtain
3 access to the relevant materials.

4 So the materials from Sweden are certainly relevant to
5 motions that I may wish to file. I need time to review this,
6 but I also probably need to see the materials that remain
7 outstanding. Therefore, I would request an adjourned date so
8 that we can -- I can review what has been provided.

9 THE COURT: That's reasonable. I'm not going to
10 object to that. The Government's certainly not going to, are
11 you?

12 MR. LAVIGNE: No, Judge.

13 THE COURT: All right. I mean, it is reasonable too,
14 isn't it?

15 MR. LAVIGNE: Yes, Judge.

16 THE COURT: She has to get her clearance,
17 understandably, and she's got to read various material after
18 she gets the clearance.

19 MS. SARAFA: Yes, Judge.

20 THE COURT: How long do you want -- go ahead,
21 Mr. Lavigne, what were you going to say?

22 MR. LAVIGNE: Well, just to speak to the potentially
23 classified materials.

24 THE COURT: Yes.

25 MR. LAVIGNE: And obviously there is a limited amount

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Conference

1 we can say about that. Just so the Court's aware and the
2 defense is aware, we expect to be making a submission to the
3 Court regarding those materials, which I indicated to
4 Ms. Sarafa we would be doing. I don't have a clear sense of
5 when the timing is going to be on that. We're going to try and
6 do that as soon as we can.

7 THE COURT: Good.

8 MR. LAVIGNE: Once we --

9 THE COURT: And to the degree that you can help her
10 and move her along to get the clearance --

11 MR. LAVIGNE: Yes, Judge, and we have done that.

12 THE COURT: Okay.

13 MR. LAVIGNE: I just want it to be clear that once
14 Ms. Sarafa gets her clearance, she's not going to be provided a
15 universe of materials. As the Court I'm sure is aware, we're
16 going to first bring it to the attention of the Court to look
17 at it.

18 THE COURT: Yes, I have to look at it --

19 MR. LAVIGNE: Yeah.

20 THE COURT: -- and pass on it and decide whether it's
21 to be turned over. I understand all that.

22 MR. LAVIGNE: Okay, yes.

23 But we're working with the folks in Washington to get
24 Ms. Sarafa cleared as soon as possible, just so we can avoid
25 any further delays once the Court's ruled on it.

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Conference

1 THE COURT: So how long are we talking about?

2 MR. LAVIGNE: I guess that's the million dollar
3 question, Judge.

4 THE COURT: Do you want a control date?

5 MR. LAVIGNE: Yeah, I'm fine with that.

6 THE COURT: Ms. Sarafa is nodding affirmatively --

7 MS. SARAFA: Yes.

8 THE COURT: -- when I asked do you want a control
9 date. When would you like as a control date?

10 MS. SARAFA: Perhaps 45 days.

11 THE COURT: It's all right with me if it's all right
12 with you.

13 MR. LAVIGNE: It's fine with me, Judge.

14 THE COURT: Okay. Let's set it down for October 12th
15 then, okay. Is that all right?

16 MR. LAVIGNE: Yes, Judge.

17 THE COURT: October 12th at 10:30. And the time
18 between now and then is excluded under the provisions of the
19 Speedy Trial Act because it's necessary for defense counsel to
20 receive her security clearance. October 12th, 10:30. And the
21 time is excluded from the provision of the Speedy Trial Act
22 because the interests of justice are best served by permitting
23 Ms. Sarafa to receive her clearance and for the Court to see
24 whatever classified documents exist and to decide whether those
25 are to be turned over to the defense.

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Conference

1 October 12th, 10:30. Thank you very much. Time is
2 excluded.

3 MS. SARAFA: Thank you, your Honor.

4 THE COURT: Thank you.

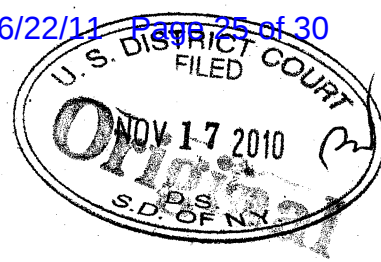
5 MR. LAVIGNE: Thank you, Judge.

6 (Adjourned to October 12th, 2010 at 10:30 a.m.)
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Exhibit E

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DOC # 27



1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

08 Cr. 1213 (JFK)

5 JAMAL YOUSEF,

6 Defendant.

8 October 12, 2010
9 10:45 a.m.

10 Before:

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12 District Judge

13 APPEARANCES

14 PREET BHARARA

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15 JEFFREY A. BROWN

Assistant United States Attorney

16 MELINDA SARAFA

17 Attorney for Defendant

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19 Also present: PAULA GOLD, Spanish interpreter
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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

08 Cr. 1213 (JFK)

5 JAMAL YOUSEF,

6 Defendant.

7 -----x

8 October 12, 2010
9 10:45 a.m.

10 Before:

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12 District Judge

13 APPEARANCES

14 PREET BHARARA

United States Attorney for the
Southern District of New York

15 JEFFREY A. BROWN

Assistant United States Attorney

16 MELINDA SARAFA

17 Attorney for Defendant

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19 Also present: PAULA GOLD, Spanish interpreter
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1 (Case called)

2 THE COURT: First of all, before we get into anything
3 substantive, how is the defendant's medical condition?

4 MS. SARAFA: At this point, your Honor, he has had all
5 of his teeth extracted and is awaiting the dentures. I think
6 they are waiting for his gums to heal.

7 THE COURT: Sometimes that takes a little while.

8 MS. SARAFA: Otherwise I believe things are stable.

9 THE COURT: Where are we on your clearance?

10 MS. SARAFA: I still have not received formal
11 notification that my clearance has been secured. It's my
12 understanding that there do not seem to be any impediments to
13 it, but it's undergoing the normal bureaucratic process. So we
14 are still awaiting a final notification. I believe the
15 government has been in contact with the office that handles
16 this, and we both are attempting to move this along, but we do
17 not have any further specifics.

18 THE COURT: Do you know anything more than we knew the
19 last time, Mr. Brown?

20 MR. BROWN: About the clearance, your Honor?

21 THE COURT: Yes, the clearance.

22 MR. BROWN: Only that we are very close.

23 THE COURT: We are close?

24 MR. BROWN: We are close. That's what I know, Judge,
25 everything Ms. Sarafa is saying about that. I have been

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1 speaking to the person who is responsible for the process, and
2 I assume we will find out, at most, in weeks, not months, maybe
3 days. And I have been working with various agencies, and we
4 are very close to making submissions to your Honor.

5 THE COURT: How long do you suggest?

6 MR. BROWN: I think, Judge, based on my discussions
7 with Ms. Sarafa, that she is prepared to set a distant date for
8 motions so we can proceed that way.

9 THE COURT: More motions? I thought we had our
10 motions. There was a motion attacking the constitutionality of
11 the charges. What are the other motions, Ms. Sarafa?

12 MS. SARAFA: Your Honor, as we had discussed at some
13 of the previous conferences, because of the need to obtain
14 additional discovery, in particular, some documents from
15 Sweden, we had postponed the original motion date, but your
16 Honor wanted to proceed with the motion on the constitutional
17 question. So I filed that, but I do anticipate filing, at a
18 minimum, I believe a motion to suppress.

19 THE COURT: Suppress what, the statement?

20 MS. SARAFA: To suppress materials obtained pursuant
21 to a search warrant that was based on information obtained in
22 part from Sweden. Although I have received some of the
23 materials from Sweden, there are additional materials that are
24 outstanding.

25 I was thinking that, just in an effort to move things

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1 along, perhaps we should set a motion date 90 days out, and I
2 will work with the government in an effort to obtain everything
3 that remains outstanding. If we need additional time, we will
4 of course inform the Court.

5 THE COURT: When do you want to make the motion?

6 MS. SARAFA: Perhaps January 14, your Honor.

7 THE COURT: Let me just make sure it's a weekday.

8 MS. SARAFA: It's a Friday.

9 THE COURT: It is indeed. January 14, 2011, for a
10 motion to suppress.

11 How long do you want to respond?

12 MR. BROWN: I think two weeks is sufficient, which I
13 guess would be the 25th.

14 THE COURT: Two weeks would be the 28th.

15 MS. SARAFA: I would ask for one week to reply.

16 THE COURT: You have a week to reply. That's February
17 4.

18 Let's set this down for February 15. I am not saying
19 I will have a written decision then, but I will be able to give
20 you orally a ruling so that you will know whether you're going
21 to have a hearing or what's going to happen. Is that all
22 right?

23 MR. BROWN: Yes.

24 MS. SARAFA: Yes.

25 THE COURT: February 15 at 10:15. The time between

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1 now and then is excluded under the provisions of the Speedy
2 Trial Act because there will be motions pending and under the
3 statute, when there are motions pending, the time is excluded,
4 besides which the interests of justice are best served by
5 excluding the time between now and February 15 so that defense
6 counsel can secure her clearance.

7 Thank you very much. February 15, 10:15.

8 MR. BROWN: Thank you, your Honor.

9 (Adjourned)